

**UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

CHAIRMAN:

Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:

Judge John F. Keenan
United States District Court
Southern District of New York

Judge Bruce M. Selya
United States Court of Appeals
First Circuit

Judge Julia Smith Gibbons
United States Court of Appeals
Sixth Circuit

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

DIRECT REPLY TO:

Michael J. Beck
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Judiciary Building
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<http://www.jpm.uscourts.gov>

August 12, 2003

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AUG 18 2003

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

Bruce Rifkin, Clerk
215 William Kenzo Nakamura
U.S. Courthouse
1010 Fifth Avenue
Seattle, WA 98104-1130

Re: MDL-1407 -- In re Phenylpropanolamine (PPA) Products Liability Litigation

(See Attached Transfer Order)

Dear Mr. Rifkin:

I am enclosing a certified copy and additional copies of an order filed by the Judicial Panel on Multidistrict Litigation in the above-captioned matter. The act creating the Panel provides that:

Orders of transfer ... shall be filed in the office of the clerk of the district court of the transferee district and shall be effective when thus filed. The clerk of the transferee district court shall forthwith transmit a certified copy of the panel's order to transfer to the clerk of the district court from which the action is being transferred. 28 U.S.C. § 1407(c).

As is also required by the statute, a copy of the order is being sent to the clerk for the District of Maine, the district in which the hearing on this matter was held on July 24, 2003.

A list of involved counsel is attached.



01-MD-01407-ORD

Very truly,

Michael J. Beck
Clerk of the Panel

By


Deputy Clerk

Enclosures/Attachment

cc: Transferee Judges:
Transferor Judges:

Judge Barbara Jacobs Rothstein
Judge William H. Barbour, Jr., Judge Eugene M. Bogen, Judge David C. Bramlette
Judge Dennis M. Cavanaugh, Judge Sidney A. Fitzwater, Judge Joseph A. Greenaway, Jr.
Judge David R. Herndon, Judge Tom S. Lee, Judge Philip R. Martinez, Judge Michael P. Mills
Judge W. Allen Pepper, Jr., Judge Charles W. Pickering, Sr., Judge Richard W. Roberts
Judge Lee H. Rosenthal, Judge Henry T. Wingate

Transferor Clerks:
Hearing District Clerk:

Arlen B. Coyle, J.T. Noblin, Karen S. Mitchell, Michael N. Milby, Nancy Mayer-Whittington,
Norbert G. Jaworski, William G. Putnicki, William T. Walsh

William S. Brownell

A CERTIFIED TRUE COPY

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

AUG 12 2003

AUG 12 2003

FILED
CLERK'S OFFICE

DOCKET NO. 1407

ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION

Pamela L. Crowe v. Bayer Corp., et al., D. District of Columbia, C.A. No. 1:03-338

RECD
LOADED
REBILLED

Marie Cunningham v. Chattem, Inc., et al., S.D. Illinois, C.A. No. 3:02-1283

George Campbell, et al. v. Bayer Corp., et al., N.D. Mississippi, C.A. No. 2:03-40

Grace McDuffy v. Bayer Corp., et al., N.D. Mississippi, C.A. No. 4:03-73

MAIL

AUG 18 2003

Mittie Sykes, et al. v. Bayer Corp., et al., N.D. Mississippi, C.A. No. 4:03-114

Edgar Eugene Fields v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 2:03-49

AT SEATTLE
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON
DEPUTY

Dianne Keyes, etc. v. C&C Drugs, et al., S.D. Mississippi, C.A. No. 2:03-58

Tawnyna Addison, et al. v. Novartis Pharmaceuticals Corp., et al., S.D. Mississippi, C.A. No. 2:03-73

Mattie Kincaid, et al. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 2:03-74

Amos Dyson, et al. v. Block Drug Co., et al., S.D. Mississippi, C.A. No. 2:03-78

Lisa Yolanda Owens, et al. v. Chattem, Inc., et al., S.D. Mississippi, C.A. No. 2:03-79

Catherine Ainsworth, et al. v. Wyeth, et al., S.D. Mississippi, C.A. No. 2:03-82

Earline Thomas, et al. v. Wyeth, et al., S.D. Mississippi, C.A. No. 2:03-83

Ozell Bailey, et al. v. Wyeth, et al., S.D. Mississippi, C.A. No. 3:03-25

Zola Darby v. Novartis Pharmaceuticals Corp., et al., S.D. Mississippi, C.A. No. 3:03-108

Diana Williams, etc. v. Baker's Pharmacy, et al., S.D. Mississippi, C.A. No. 3:03-134

Charlotta M. Gardner, etc. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 3:03-136

James Gray, et al. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 3:03-225

Sherry Jones, et al. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 4:03-58

Kenneth Stevens v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 4:03-59

Rodella Neal v. GlaxoSmithKline, PLC, et al., S.D. Mississippi, C.A. No. 4:03-84

Annie R. Jones v. Wyeth, et al., S.D. Mississippi, C.A. No. 4:03-86

Lessie Hales v. Chattem, Inc., et al., S.D. Mississippi, C.A. No. 4:03-87

Robert Lee Jones v. Block Drug Co., Inc., et al., S.D. Mississippi, C.A. No. 4:03-104

Elizabeth A. Woods v. City Drug Store, Inc., et al., S.D. Mississippi, C.A. No. 5:03-74

Lessie Brown v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-110

Rhonda Darlene Aida, et al. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-124

Lucille Fells v. Bayer Corp. et al., S.D. Mississippi, C.A. No. 5:03-127

Lucian Smith, et al. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-128

Mary Good v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-149

Renee Butler, etc. v. SmithKline Beecham Corp., et al., S.D. Mississippi, C.A. No. 5:03-156

Mae Ruth Landers, et al. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-157

Emma Davis v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-159

Marilyn Walker v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-160

Kenneth Davis, et al. v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-172

Will T. Gaines v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-175

Rose Cooper, et al. v. Novartis Consumer Healthcare, Inc., et al., S.D. Mississippi, C.A. No. 5:03-178

Sara Watson Truitt v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-183

Marie Moore v. Bayer Corp., et al., S.D. Mississippi, C.A. No. 5:03-184

Madeline J. Baumgartner v. Sidmak Laboratories, Inc., et al., D. New Jersey, C.A. No. 2:02-6171

Susan H. Pettet v. Sidmak Laboratories, Inc., et al., D. New Jersey, C.A. No. 2:02-6172

Evelyn McCann, et al. v. Advocare International, LLC, et al., N.D. Texas, C.A. No. 3:03-267

Tommy Trahan, et al. v. Advocare International, LLC, et al., S.D. Texas, C.A. No. 4:03-482

Jose Tavarez, et al. v. Advocare International, LLC, et al., W.D. Texas, C.A. No. 3:03-83

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN,
BRUCE M. SELYA,* JULIA SMITH GIBBONS, D. LOWELL JENSEN, J.
FREDERICK MOTZ* AND ROBERT L. MILLER, JR., JUDGES OF THE
PANEL**

TRANSFER ORDER

Before the Panel are motions brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in one District of Columbia, one Southern District of Illinois, three Northern District of Mississippi, 34 Southern District of Mississippi, two District of New Jersey and three Northern, Southern and Western District of Texas actions. Plaintiffs seek to vacate Panel orders conditionally transferring their respective action to the Western District of Washington for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Barbara Jacobs Rothstein. Various defendants in the actions have responded in support of transfer of their respective action(s).

On the basis of the papers filed and hearing session held, the Panel finds that these 44 actions involve common questions of fact with actions in this litigation previously transferred to the Western District of Washington, and that transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel is persuaded that transfer of the actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. The Panel held that the Western District of Washington was a proper Section 1407 forum for actions brought by persons allegedly injured by products containing Phenylpropanolamine (PPA) – a substance which, until it recently became the subject of a public

*Judge Selya participated in the disposition of this matter only with respect to sixteen of the actions: the District of Columbia action, the Southern District of Illinois action, two Northern District of Mississippi actions (*Campbell and McDuffy*), ten Southern District of Mississippi actions (*Keyes, Williams, Gardner, Gray, Sherry Jones, Stevens, Hales, Brown, Fells and Smith*), and the two District of New Jersey actions. Additionally Judge Motz took no part in the disposition of this matter with respect to ten of the actions: one Northern District of Mississippi action (*Sykes*), seven Southern District of Mississippi actions (*Addison, Kincaid, Owens, Ainsworth, Bailey, Aitd and Cooper*), and the two Northern and Western District of Texas actions.

health advisory issued by the Food and Drug Administration, was used as an ingredient in many nasal decongestants and weight control products. *See In re Phenylpropanolamine (PPA) Products Liability Litigation*, 173 F.Supp.2d 1377 (J.P.M.L. 2001).

The plaintiffs premise much of their opposition to transfer on their argument that federal jurisdiction is lacking in their actions. They urge the Panel not to order transfer before remand motions are resolved by the appropriate transferor court. We note that remand and other motions, if not resolved in transferor courts by the time of Section 1407 transfer, can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these 44 actions are transferred to the Western District of Washington and, with the consent of that court, assigned to the Honorable Barbara Jacobs Rothstein for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

INVOLVED COUNSEL LIST**DOCKET NO. 1407****IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION**

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PG. 3 of 5

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PG. 4 of 5

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Mildred M. Morris Watkins & Eager P.O. Box 650 Jackson, MS 39205-0650		

INVOLVED COUNSEL LIST FOR TRANSFER ORDER (Cont.) MDL 1407

PG. 5 of 5

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Stop-N-Shop c/o Mike Kimbrell 103 North Main Street Leland, MS 38756	Thomas W. Tyner Aultman, Tyner, Ruffin & Yarborough, Ltd. P.O. Box 750 Hattiesburg, MS 39403-0750	Winn-Dixie Stores, Inc. c/o Corporation Service Co. 1201 Hays Street Tallahassee, FL 32301
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